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6 UNITED STATES DISTRICT COURT
7
8 NORTHERN DISTRICT OF CALIFORNIA

9 JUSTIN MERRIMAN,
10 Plaintiff

11 v.

12 GOVERNOR JERRY
13 BROWN,
14 WARDEN RON DAVIS,
15 OFFICER SMITH,
16 OFFICER TIERNEY
17 Does 1 to 50,
18 Defendants

CASE NO.: 15-cv-01715-WHA

PLAINTIFF'S REPLY TO
DEFENDANT'S RESPONSE

Date: 06/23/2016

Time: 08:00 a.m.

Dept.: Ctrm. 9, 19th Floor

17 Comes now Plaintiff Justin Merriman by and through his attorney of
18 record replies to Defendant's response to Plaintiff's motion to amend as
19 follows:
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21 1. Defendant is a correctional officer at San Quentin State Prison.

22 As such, Defendant has no standing to respond to Plaintiff's motion to add
23 the State of California as a party. That response should come from the
24 California Attorney General's Office. The Attorney General's Office has
25 been monitoring this case and would have been apprised of the motion. That
26 office could have made a special appearance to contest the motion but did not.
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28 2. Officer Tierney's response is a demurrer and not a response as

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2 Tierney's response does not address Plaintiff's reliance on Federal Rules
3 15 and 18 and as such is not responsive to Plaintiff's motion.

4 Plaintiff is simply substituting the State of California for a doe defendant
5 and is entitled to do so under the Federal Rules. (a copy of the amended
6 complaint with the State of California as a named Defendant is attached).
7

8 3. Plaintiff requires the State of California to be a named.
9 Defendant in order to engage in discovery, especially in order to gain
10 the proper names and personnel records of the Defendant correctional
11 officers.
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13 4. For the above stated reasons, Plaintiff respectfully requests
14 the Court to grant Plaintiff's motion to substitute the State of California
15 in the place of a doe defendant.

16 Date: 6-14-16

Respectfully Submitted,

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John E. Stringer, Attorney for Plaintiff
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